

REMARKS

Claims 37 and 38 have been canceled. Accordingly, claims 1-36, and 39-49 are at issue.

Applicant wish to thank the Examiner for the indication that claims 9-27, 36 and 42-49 are allowed.

Claim 41, indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, has been amended to include all of the limitations of original claim 37. Accordingly, claim 41 is believed to be in condition for allowance.

Claims 7, 8, 34 and 35 indicated to allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims have not been so amended because, as discussed more fully below, it is believed that the base claims are allowable.

Applicant respectfully traverses the rejection of claims 1, 2, and 5 under §102 as anticipated by Sutoh et al. Independent claim 1 has been amended to change the phrase "wherein said second and third door each control the airflow to said second and third outlets" to "wherein said second and third door each control the airflow to both said second and third outlets". This structure is not shown or suggested by Sutoh et al. Rather, Sutoh et al. discloses second and third doors (27, 28) each of which control the airflow to a single outlet (23 or 24), respectively, but not to both outlets (23 and 24).

Accordingly, in view of this amendment, the rejection of claim 1 and its dependent claims 2 and 5 should be withdrawn.

Applicant respectfully traverse the rejection of claims 4, 39, and 40 under §102 as anticipated by Sutoh et al. The rejection is improper because Sutoh et al. fails to disclose the structure and/or steps recited in these claims.

More specifically, claim 4, now amended to independent form to include all the limitations of original claim 1, recites a second chamber having a second and third outlet that are controlled by second and third doors, with the second outlet comprising a panel outlet. This structure is not shown in Sutoh et al. Rather, the outlets (23, 24) of the second chamber in Sutoh et al. are a lower air outlet and a defroster outlet (see col. 2, lines 39-40). Accordingly, the rejection of claim 4 is improper.

Claim 39, which has been amended to include all of the limitations of original base claim 37, characterizes the step of controlling the air flow from the second chamber to a first zone as including controlling the division of airflow between a second outlet and a third outlet with the second door. This step is not shown in Sutoh et al. Rather, the doors (27 and 28) in Sutoh et al. control the airflow to their single respective outlet 23 and 24 rather than a pair of outlets as recited in claim 39. Accordingly, for this reason, the rejection of claim 39 and its dependent claim 40 is improper and should be withdrawn.

Claim 40 further characterizes the steps of controlling airflow from the second chamber to a second zone with a third door as including controlling the airflow provided to the second outlet and third outlet with the third door. Again, as noted above, each of the doors 27 and 28 in Sutoh et al. control a single respective outlet 23 and 24 rather than controlling the airflow to a pair of outlets. Accordingly, for this additional reason, the rejection of claim 40 is improper and should be withdrawn.

Applicant respectfully traverses the rejections of claims 3, 6, and 28-33 under §103 as unpatentable over Sutoh et al. In general, the rejections of these claims are improper because the Examiner has not established a *prima facie* case of obviousness as required under §103. See *MPEP 2143 et seq.* Absent a properly established *prima facie* case of obviousness, the applicant is under no obligation to show criticality or new and unexpected results. See *MPEP 2142* (stating that "if the Examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of non-obviousness.") More specifically, the allegation in the rejection of these claims that all of the structure recited in the claims but not shown in Sutoh et al. is simply "a matter of mere engineering design choice and therefor obvious" is completely insufficient to establish a *prima facie* case of obviousness. See *MPEP 2143.01* (stating that "FACT THAT THE CLAIMED INVENTION IS WITHIN THE CAPABILITY OF ONE OF ORDINARY SKILL IN THE ART IS NOT SUFFICIENT BY ITSELF TO ESTABLISH PRIMA FACIE OBVIOUSNESS.") Absent a properly

rationaled rejection under §103, including an explanation of how the prior art teaches that it would be desirable to modify Sutoh et al. to arrive at the structure recited in the claims the rejection of these claims is improper and should be withdrawn. See *MPEP* 2145.X.C. (stating that “The Federal Circuit has produced a number of decision overturning obviousness rejections due to a lack of suggestion in the prior art of the desirability of combining references.”)

Furthermore, claim 3, which has been amended to include all of the limitations of original claim 1, recites a first chamber controlled by a first door and having a first outlet and a first passage, with the first outlet comprising a defrost outlet. This structure is neither shown nor suggested by Sutoh et al. Rather, Sutoh et al. discloses that its outlet 22 is an upper air outlet for the driver’s face, with the defrost outlet being the outlet 24 that is controlled by the door 28 from the second chamber in Sutoh et al. If Sutoh et al. were modified as suggested by the Examiner, it would require that the outlet 22 become the defroster outlet, which would render Sutoh et al. unsuitable for its intended purpose and change its principle of operation because it would direct the humidified air from the humidifier 36 against the window as opposed to the desired target of the driver’s face. (See col. 2, lines 54-col. 3, line 6, and col. 3 line 53-col. 4, line 10.) See *MPEP* 2143.01 (stating that “THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE” and “THE PROPOSED MODIFICATION CAN NOT CHANGE THE

PRINCIPLE OF OPERATION OF A REFERENCE.”) Accordingly, for this additional reason, the rejection of claim 3 is improper.

With respect to claim 6, which has been amended to include all of the limitations of original claim 1, claim 6 recites a wall dividing the second chamber into a third chamber and a fourth chamber. This structure is neither shown nor suggested by Sutoh et al. Rather, the second chamber of Sutoh et al. is defined by the space between the door 26 and the doors 27 and 28. The allegation in the rejection that Sutoh et al. discloses two walls, rather than one, appears to be a misconstruction of Sutoh et al. or of the claims because the double walls in Sutoh et al. separate the ducts 23 and 24, not the second chamber that is controlled by the doors 27 and 28. Accordingly, Sutoh et al. fails to disclose any wall in a second chamber. For this additional reason, the rejection of claim 6 should be withdrawn.

Independent claim 28 recites a second door for controlling a first portion of an airflow received from a first passage and directed to a driver side of the vehicle, and a third door for controlling a second portion of the airflow from the first passage and directed to a passenger side of the vehicle. This structure is neither shown nor suggested by Sutoh et al. Rather, Sutoh et al. discloses a door 27 for controlling an airflow to a lower duct and a door 28 for controlling a airflow to a defroster. There is absolutely nothing in Sutoh et al. that suggest that it would be desirable to separately control the airflow to the driver's side of the vehicle and to the passengers' side of the

vehicle, let alone to do so using a respective pair of doors that receive airflow from a common passage, as recited in claim 28. Accordingly, for this additional reason, the rejection of claim 28 and its dependent claims 29-33 is improper and should be withdrawn.

Claim 29 characterizes the first outlet from the first chamber as comprising in defrost outlet. Again, as noted above in connection with claim 3, this structure is not shown in Sutoh et al., and if Sutoh et al. was modified so that its duct 22 was a defrost outlet, it would render Sutoh et al. unsuitable for its intended purpose and change its principle of operation. This is not allowed. Accordingly, for this additional reason, the rejection of claim 29 is improper and should be withdrawn.

Claim 31 depends from claim 28 and recites a second chamber connected to the first passage to receive the airflow therefrom and a wall dividing the second chamber into a third chamber and a fourth chamber. Again, as discussed above in connection with claim 6, the second chamber of Sutoh et al. does not include any wall, let alone one that divides the second chamber into third and fourth chambers. Nor is there any suggestion in Sutoh et al. that it would be desirable to add a wall in a second chamber as recited in claim 31. In this regard, it is unclear how Sutoh et al. would be improved by adding a wall in the second chamber lying between the door 26 and the doors 28 and 27. For this additional reason, the rejection is improper and should be withdrawn.

A check in the amount of \$420.00 is enclosed herewith to cover the fee for the five (5) additional independent claims.

The Commissioner is authorized to charge payment of any deficiency or credit any overpayment to Deposit Account No. 23-0785.

In view of the foregoing, Applicant respectfully request reconsideration of the rejection of claims 1-6, 28-33, 39, and 40, and the objections to claims 7, 8, 34, 35, and 41, and allowance of the case.

Respectfully submitted

By 
Jeffery N. Fairchild, Reg. No. 37,825

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
Citicorp Center, Suite 3800
500 West Madison Street
Chicago, Illinois 60661-2511
312/876-1800

MARKED UP VERSION OF CLAIMS

1. (Once amended) An airflow control apparatus having a plurality of doors and outlet for controlling an airflow in a vehicular HVAC system, said apparatus comprising:

A1 a housing having a inlet for receiving the airflow;

a first chamber of said housing controlled by a first door, and having a first outlet and a first passage; and

a second chamber of said housing coupled to said first passage and controlled by said first door, a second door and a third door, said second chamber having a second outlet and a third outlet, wherein said second and third doors each control the airflow to both said second and third outlets.

3. (Once amended) [The apparatus of claim 1 wherein] An airflow control apparatus having a plurality of doors and outlets for controlling an airflow in a vehicular HVAC system, said apparatus comprising:

A2 a housing having an inlet for receiving the airflow;

a first chamber of said housing controlled by a first door, and having a first outlet and a first passage, said first outlet [comprises] comprising a defrost outlet; and

a second chamber of said housing coupled to said first passage and controlled by said first door, a second door and a third door, said second chamber having a

second outlet and a third outlet, wherein said second and third doors each control the airflow to said second and third outlets.

A2

4. (Once amended) [The apparatus of claim 1 wherein] An airflow control apparatus having a plurality of doors and outlets for controlling an airflow in a vehicular HVAC system, said apparatus comprising:

a housing having an inlet for receiving the airflow;

a first chamber of said housing controlled by a first door, and having a first outlet and a first passage; and

a second chamber of said housing coupled to said first passage and controlled by said first door, a second door and a third door, said second chamber having a second outlet and a third outlet, wherein said second and third doors each control the airflow to said second and third outlets, and said second outlet comprises a panel outlet.

6. (Once amended) [The apparatus of claim 1 further comprising] An airflow control apparatus having a plurality of doors and outlets for controlling an airflow in a vehicular HVAC system, said apparatus comprising:

A3

a housing having an inlet for receiving the airflow;

a first chamber of said housing controlled by a first door, and having a first outlet and a first passage;

A3 a second chamber of said housing coupled to said first passage and controlled by said first door, a second door and a third door, said second chamber having a second outlet and a third outlet, wherein said second and third doors each control the airflow to said second and third outlets; and

a wall dividing said second chamber into a third chamber and a fourth chamber.

ob 39. (Once amended) [The method of claim 37] A method of controlling an airflow in a vehicular HVAC system, said method comprising the steps of:

A4 receiving the airflow into a first chamber of a housing;

controlling the airflow from said first chamber to a second chamber of a housing with a first door;

controlling the airflow from said second chamber to a first zone with a second door including; and

controlling the airflow from said second chamber to a second zone with a third door;

wherein said step of controlling airflow from said second chamber to a first zone comprises controlling the division of airflow between a second outlet and a third outlet with said second door.

41. (Once amended) [The method of claim 37] A method of controlling an airflow in a vehicular HVAC system, said method comprising the steps of:

AS receiving the airflow into a first chamber of a housing;

controlling the airflow from said first chamber to a second chamber of a housing with a first door; and

controlling the airflow from said second chamber to a first zone with a second door; wherein said step of controlling airflow from said second chamber to a first zone comprises dividing the airflow from said first chamber between a fourth outlet and a sixth outlet with said second door, and wherein said step of controlling airflow from said second chamber to a second zone comprises dividing the airflow from said first chamber between a fifth outlet and a seventh outlet with aid third door.